

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSEPH J. CARROLL,

Index No.: 07-CV-11577

Plaintiff,

- against -

NOTICE OF MOTION

CITY OF MOUNT VERNON,

ERNEST D. DAVIS, Individually and as Mayor
of the City of Mount Vernon

CITY OF MOUNT VERNON DEPARTMENT
OF FIRE,

and

NICHOLAS CICCHETTI, Individually and as
Commissioner of Fire for the City of Mount Vernon

Defendants.

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PLEASE TAKE NOTICE, that upon the accompanying Memorandum of Law dated January 29, 2008, Defendants, City of Mount Vernon, Ernest D. Davis, City of Mount Vernon Department of Fire, and Nicholas Cicchetti, will move this Court, before the Honorable Charles L. Brieant, at the United States Courthouse located at 300 Quarropas Street White Plains, New York 10601 on February 29, 2008, at 10:00 a.m., or as soon thereafter as counsel may be heard for an Order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure dismissing the Complaint in its entirety.

PLEASE TAKE FURTHER NOTICE, that pursuant to Civil Rule 6.1 of the Local Rules of the Southern and Eastern Districts of New York, papers in opposition to this motion must be served on Defendant's counsel within ten (10) business days after service of this Notice of Motion.

Dated: Garden City, New York
January 29, 2008

Respectfully submitted,

BOND, SCHOENECK & KING, PLLC

By: /s/Howard M. Miller

Howard M. Miller (HMM: 4538)
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CERTIFICATE OF SERVICE

I hereby certify that on January 29, 2008 the foregoing document was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Southern District's Local Rules, and/or the Southern District's Rules on Electronic Service upon the following parties and participants:

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s/ Howard M. Miller
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